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This document is concerned with two kinds of crimes:

1. The assault upon prisoners at various NSW gaols, arising out of the events of 3 February 1974 at Bathurst Gaol.

2. The conspiracy presided over by the Minister of Justice, John Maddison, to deprive these prisoners of the equal protection of the laws and to obstruct the course of justice in relation to these assaults.

What follows here is an outline of what happened at Bathurst on 3 February 1974. No doubt, because we have our biases there will be errors in what we say. But we have tried to be honest.

On Sunday 3 February 1974 at approximately 1.30 pm a fire bomb was thrown in the picture theatre at Bathurst Gaol. Several chairs were also thrown. As the prisoners moved out of the theatre to the front yard, a warder extinguished the firebomb. Twenty minutes later warders took a prisoner, William Joseph Kennedy, to C Wing where he was beaten and locked up. His screaming incensed the other prisoners who broke out of the yards. All the warders fled from the inside of the gaol. Some of the prisoners proceeded then to destroy and set fire to parts of the gaol. At some point, whether before or after the beginning of the destruction it is not clear, warders began to fire indiscriminately at the prisoners. Some

prisoners were shot in the back and one was shot several times while attempting to surrender with a white flag. The destruction and shooting continued for nearly two hours. By about 5 pm the last of the prisoners had surrendered and they were locked in the back yard for three to four hours. Prisoners and warders continually exchanged abuse. At approximately 9 pm the prisoners began to break through the walls to adjoining yards in order to protect themselves from the floggings they considered inevitable. Later, tear gas canisters were fired into the yards and the prisoners were forced to run a gauntlet of warders armed with long batons. Some prisoners were beaten into vans and taken to other gaols. Others were beaten back into other yards and over the next twenty-four hours, repeatedly assaulted. Upon arrival at Long Bay and Goulburn Gaols, some prisoners were again attacked. At Goulburn Gaol they were forced to burn themselves by being made to carry too hot food canisters.

For weeks after the riot, prisoners involved were held incommunicado. Members of the State Labor Opposition and the Government were refused permission to see them and letters from the prisoners requesting legal aid were stopped by the prison authorities and allowed out just before the committal proceedings were due to begin. For the next six months, prisoners were subjected to further harsh and callous treatment. We will say more of this later. At least one prisoner was refused medical attention for his injuries for five days.

The events at Bathurst should come as no surprise. The NSW Department of Corrective Services and Bathurst Gaol have a long and violent history leading up to February 3.

On Friday 19 October 1970, 150 prisoners at Bathurst took over an exercise yard and refused to move. They had a list of grievances which they wanted conveyed to the department. After assurances were given that this would be done, the men returned to their cells. On Monday when the prisoners left their cells they were confronted with heavily

armed squads of warders and Special Operations Division officers of the Department of Corrective Services and the knowledge that their grievances would be ignored.

At midday the prisoners rioted and after 2 hours of destruction within the gaol, a meeting between prisoners and officers of the department ended in prisoners deciding to return to their cells. They were given an undertaking that there would be no reprisals. The next morning warders in groups systematically toured the gaol and flogged almost every prisoner. Despite a public outcry and demands for a Royal Commission, the Department of Corrective Services and its minister resisted the pressure to enquire or reform, thereby laying the groundwork for the more recent events.

In October 1973, prisoners at Bathurst staged another sit-in protest, this time demanding to see the Council for Civil Liberties with their grievances. The President and Secretary of the CCL went to the gaol and received a list of grievances. On their return to Sydney the CCL group saw Minister of Justice Maddison who advised them that he considered the grievances "trivial". The so-called ringleaders of the protest were transferred to other gaols.

In January this year, another sit-in was planned but didn't quite come off. Nevertheless, 37 prisoners were charged, confined to solitary cells and lost up to five weeks remission.

For the past four years, the tension between prisoners and warders has been patent. The prisoners have felt themselves continually needed by the prison authorities. In their records of interview and the grievance lists, prisoners describe the mean little oppressions practiced upon them by the warders. They were subjected to unprovoked abuse, they were ignored when they wished to pass from one part of the gaol to another, any requests that they made were treated with hostility or indifference. The animosity between prisoners and warders was particularly aggravated by the decision of the gaol governor to restrict the number of personal articles that a prisoner might have in his cell. With a gratuitous vandalism, warders several times during

1973/74 went through the cells tearing up and destroying letters, photos, picture frames etc. belonging to the prisoners.

While Bathurst and Grafton represent the worst in NSW gaols, the whole system is rotten with violence and oppression. Earlier this year a Public Service enquiry found that eight warders at Long Bay had bashed four prisoners after an attempted escape. The circumstances of this incident provide some insight into the workings of the Department of Corrective Services and have been described in more detail in an earlier pamphlet, *It's just not good enough Mr. Maddison*.

In the week following the Bathurst disturbance of February 3, Sir Robert Askin announced that a Royal Commission would be held. For some months no action was taken to initiate this enquiry. Nor were any terms announced for its investigation, though the Minister of Justice made it clear that these would be very narrowly defined. Finally, with a remarkable contempt for public concern over the riot, the Minister announced that there would be no public enquiry until all criminal charges arising out of the events had been finalised. The Government's motives were clearly to punish those who could be held responsible for the riot and not to the cause thereof. Lawyers for the prisoners already charged have said the court hearings and appeals will take at least two years. Mr Maddison's motives in this matter are not hard to discern. For his purposes, and enquiry long delayed is almost as good as no enquiry.

Despite the fact that the Minister of Justice has had access to the statements of interview made by over 200 prisoners who are consistent in their allegations of systematic brutality by warders, and whose evidence is corroborated by the government medical officer at Bathurst, the only charges initiated have been laid against prisoners. But the Minister of Justice has been more than merely derelict in his duty to afford prisoners equal protection of the laws. Under his auspices, the justice system of the state has been manipulated to deny prisoners their rights to due process of law:

1. We have already noted the interference of prison authorities in prisoner's initial attempts by letter to obtain legal aid.

2. When prisoners were finally able to seek legal aid from the appropriate state authority, they were refused. The Council for Civil Liberties then approached the Australian Government and obtained legal aid for one prisoner. This presumably embarrassed the State Government who then provided one lawyer for a large portion of the remaining 41 prisoners. A lawyer who, it might be added, is universally regarded as a stooge for the police and suitable only for pleading guilty for prostitutes. Not unnaturally, the prisoners objected particularly as a few had managed to get CCL lawyers who were prepared to appear free. The CCL drew up a list of barristers and solicitors from whom the prisoners made their choice. But to keep their practices solvent, the barristers are unable to forgo other work, with the result that, prisoners are rarely represented by the same barrister for the entire committal proceeding. Despite the best efforts of the lawyers, this niggardly approach to legal aid by the State Government has obstructed and continues to interfere seriously with the prisoner's defence.

3. During February and March this year, prisoners involved in the disturbance were interviewed by police. At around the same time, warders concerned made statements to senior officers of the Department of Corrective Services. The different treatment accorded to the records of interview of prisoners and the statements of the warders is, we think, odd and revealing. The prisoners consistently maintain that they were induced to make their record of interview after assurances from the police that they would be used for a Royal Commission. If the statements were induced, they are not admissible in court. But the prosecution in the committal proceedings wanted prisoner's records of interview to be admitted because in some of them the prisoner implicates himself and others in the destruction of various objects during the riot. The records of interview were admitted by the magistrate in each case

after assurances from the police that the prisoners admitted destroying various things such as locks, windows, toilet bowls etc. more or less off their own bats. At this point the astute observer might have expected that the magistrate, by admitting the records of interview, had fouled any attempt to cover up the assaults on prisoners described in the interviews.

When the defence lawyers called for the warders' statements to be produced in court, a certificate of privilege was obtained by the prosecution preventing the defence from seeing them. If the warders have told anything close to the truth about what happened at Bathurst (and if there is nothing to hide, why claim privilege?), the Minister of Justice is covering up a foul crime.

In the period between February 3 and the following August, the prisoners charged were subjected to special treatment. It should be noted that these punishments were not awarded by any judicial tribunal: they were inflicted at the gaol governor's discretion.

A. The prisoners were confined to cells for 22 hours each day.

B. No exercise was allowed.

C. They were not permitted any form of work.

D. Their food was cut to approximately half the normal ration.

E. Tobacco, reading material, sport, toilet paper, communication and other privileges were denied to them.

The demoralising effect of this kind of treatment was born out during the first committal proceeding. A prisoner became so desperate that he slashed his wrists, leapt onto a table and cried out, "Is this British justice?" The response of British justice to this enquiry is instructive. The following day the court reconvened. When the prisoner's lawyer raised the matter of the previous day's events, he was interrupted by the prosecutor who said the lawyer was grandstanding. The prosecutor had stated that in fact the man had grazed his elbow. When he had finished, the magistrate said he would hear no more on the matter and

he wouldn't. An hour later, the lawyer was able to see the prisoner in the cells. The prisoner had large pieces of plaster on each wrist and his elbows were fine. There is some reason to believe that state authorities do not look upon disturbances in court with undiluted repugnance. At a later committal proceeding, there was another disturbance and although there were no reporters in court, the newspapers were given the story that the courtroom had been nearly destroyed in a massive, terrifying outburst by the prisoners. The newspapers were not given this story by anyone associated with the prisoners. And as the magistrate graciously acknowledged the next day, the newspapers' accounts were nonsense. But the denial that the prisoners were wild animals did not receive anywhere near the same press coverage as the lies of the previous day.

5. The prison authorities have continually done their level best to interfere with the integrity of the lawyer-client relationship. Lawyers attempting to obtain instructions from their prisoner clients have been compelled to use interview rooms in which the lawyer and prisoner are separated by a glass wall. Beyond the sheer impersonality of such an arrangement, this has hampered free communication between the parties. An attempt by the lawyers concerned to change these conditions of interview was rejected out of hand by the State Supreme Court. Secondly, prisoners were on occasion moved, for no apparent reason, from one gaol to another, further hindering the compiling of their defence. And thirdly, up until July this year, prison officials treated with contempt what is a traditional legal principle; confidentiality between lawyer and client. Until that time, all written instructions by prisoners were vetted by warders before they were given to the lawyers.

6. The role of the magistrates in the committal proceedings is an exceedingly curious one. Two features of their control of the proceedings are important. Firstly, their concern for the equanimity of witnesses representing the Department of Corrective Services is simply astounding. The kind of total protection against ambiguity and self-contradiction that magistrates have afforded to warders

giving evidence is a perversion of their rightful role. Secondly and more importantly, the magistrates have been swift and strenuous in their efforts to suppress any discussion of possible crimes committed against prisoners. Perhaps the most flagrant example of this occurred in the second committal proceeding. The defence called the prison doctor, Dr Doust. He was permitted to describe the gunshot wounds suffered by prisoners. He went on to say that he had treated one prisoner for 37 contusions, which in his opinion, were consistent with a prolonged beating with batons. At this point, the magistrate intervened and refused to allow the doctor to continue, saying that it was not his, the magistrate's job, to enquire into that aspect of the case. One might ask, whose job was it? Was it the task of the interviewing detectives who were first told of the bashings? Was it the job of the Crown Law authorities who read the interviews? Or did the final responsibility for investigating what overwhelming prima facie evidence suggested was a crime, lie with the Minister of Justice, John Maddison? No matter whose job it was, it was not done.

It may well be true that these magistrates are men of such small competence that they can only be set to investigate particular matters assigned to them by their master, John Maddison, and no more. But even in these, there is reason to doubt their honesty and impartiality.

7. On every day of the committal proceedings, the Prisoners Action Group has had an observer in court. There have been numerous attempts by the police and prosecution in the cases to intimidate these persons. For example, one observer who has been in prison several times is constantly asked by police what employment he has, where he lives and how he gets his money. Equally unjustified are the accusations made by the prosecution in court that PAG observers have incited the prisoners and attempted to intimidate witnesses. Consistent with these attempts to intimidate supporters of the prisoners is the recent smear attack, made under cover of parliamentary privilege, by John Maddison on Jim Staples, one of the defence lawyers.

There is something rather eerie about the legal system in NSW. We wouldn't expect everyone in the state to be concerned about what happened at Bathurst but we did expect at least one group to have a professional interest in the matter, namely, the legal fraternity. As a group, they have always professed and demanded respect for their own sense of integrity and ethics. We would have expected then that if the slightest suspicion of wrongdoing had attached itself to the caretaker of justice in this state, their professional organisations would be scrupulous in their efforts to remove that doubt. But the facts of the matter are these. There are not twenty lawyers in the state who have shown the slightest concern over the lashings at Bathurst. There is not one judge or magistrate who has cared sufficiently for the law to protest the legal horrors that John Maddison has perpetrated.

The Minister of Justice has a lot to answer for. But who in this state can bring him to justice? Those who have the power do not care to do so: those that care do not have the power.

In the middle of October this year, Tony Green and Geoff Mullen sent the Australian Government a submission which was essentially the same as this document. They later went to Canberra and attempted to put to Senator Murphy that the Australian Government has a responsibility to see that prisoners under its jurisdiction, namely, aborigines, pensioners, ex-servicemen and persons convicted under Commonwealth law, do not get beaten insensible from time to time by state officials. Despite a considerable effort on their part, they were unable to speak with Senator Murphy, and to this time he has made no reply to their submission.

It is because the corruption of justice in N.S.W. appears to be of no concern to the Australian Government or the lawyers of this state that we have published this document. We have no further court of appeal than the consciences of the citizens of N.S.W.

Geoff Mullen

Tony Green

24/11/74

*The Prisoners Action Group and the Penal Reform Council
are about to establish a half-way house in the Sydney Metropolitan
Area which will revolutionise the assistance available to people
being released from our prisons. If you would like more information,
make a donation, or help in any way please contact:*

Secretary —

Half way house project

Box 239 Post Office, Cammeray. NSW

PENAL REFORM COUNCIL

meets 3rd Monday of each month — 7.45pm at

Humanist House

10 Shepherd St., Chippendale.

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